

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN W. PEROTTI,)	CASE NO. 4:05CV2739
)	
Plaintiff,)	
)	
v.)	JUDGE PETER C. ECONOMUS
)	
JASON MEDLIN, et al.,)	ORDER
)	
Defendant.)	

This matter is before the Court upon the report and recommendation of Magistrate Judge George J. Limbert. (Dkt. # 35).

On September 7, 2005, Plaintiff filed a *pro se* complaint in the Mahoning County Court of Common Pleas alleging, *inter alia*, violations of the Americans with Disabilities Act, 42 U.S.C. § 1202, *et seq.*; the Federal Rehabilitation Act, 29 U.S.C. § 791, *et seq.*; 42 U.S.C. § 1983; violations of his First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights under the United States Constitution; and various common law tort claims arising from his treatment while incarcerated. (Dkt. # 1). Defendants Dan Stech and Jason Place removed Plaintiff's complaint to this Court on November 23, 2005. (Dkt. # 1). The case *sub judice* was then referred to Magistrate Judge George J. Limbert for general pre-trial supervision, including all motions. (Dkt. # 6).

On March 17, 2006, the Magistrate Judge issued a report recommending that the Court grant the motions to dismiss filed by Defendants Stech, Place, and the United States of

America. (Dkt. # 35). The report further recommended that, pursuant to the United States Court of Appeals for the Sixth Circuit's holding in Rinard v. Luoma, 440 F.3d 361 (6th Cir.2006), the Court dismiss Plaintiff's complaint in its entirety, without prejudice, for Plaintiff's failure to sufficiently show that he exhausted his administrative remedies as to Defendants Stech, Place, and the United States of America. (Dkt. # 35). On March 23, 2006 and March 30, 2006, Plaintiff filed objections to the Magistrate's recommendations. (Dkt. #s 40, 44). On April 13, 2006, Defendants Pritsche, Favre, Sacco, Kauchek, and Guzik filed a response to Plaintiff's objections. (Dkt. # 45). Defendants Stech, Place, and the United States of America also filed a response to Plaintiff's objections on April 13, 2006. (Dkt. #46).

The Court has reviewed the report and recommendation of the Magistrate Judge, *de novo*. The Court finds that the report and recommendation (Dkt. # 35) is well-supported and that Plaintiff's objections are without merit. Therefore, the Magistrate Judge's report and recommendation is hereby **ADOPTED** and Plaintiff's objections are overruled.

Accordingly, the Court **GRANTS** the motions to dismiss filed by Defendants Stech, Place, and the United States of America. (Dkt. #s 18,19). Furthermore, Plaintiff's complaint is hereby **DISMISSED** without prejudice for his failure to show that he exhausted his administrative remedies against Defendants Stech, Place, and the United States of America. (Dkt. #1). All remaining pending motions are **DENIED** as **MOOT**. (Dkt. #s 14, 15, 16, 21, 23, 24, 27, 31, 36, 37, and 42).

IT IS SO ORDERED.

/s/ Peter C. Economus - April 17, 2006
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE